THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
and
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION Nos.20642, 20758, 20825, 23217, 23219, 23220, 23224, 23764 and 23765 of 2005

COMMON ORDER: (per RSR, J)

In all these Writ Petitions, identical issue falls for consideration and the Andhra Pradesh Administrative Tribunal, Hyderabad passed impugned orders in each of these matters relying on the earlier orders passed by it in O.A.No.7300 of 1993, dated 21.04.2003, as such, they are heard together and being disposed of by this common order.

For the purpose of disposal, we refer to the facts mentioned in Writ Petition No.20642 of 2005.

Respondent herein is a Rural Medical Practitioner and is running a dispensary at Vemulavada, Muvva Mandal, Krishna District. He approached the Administrative Tribunal by filing O.A.No.8607 of 2003 under Section 19 of the Administrative Tribunals Act, 1985 seeking to issue directions to the petitioners herein for appointing him as Medical Officer by extending notional seniority and monetary benefits. The Tribunal relying on

earlier order, dated 21.04.2003 in O.A.No.7300 of 1993, passed the impugned order in terms of the directions issued therein.

A copy of order, dated 01.04.2003 passed by the Tribunal in O.A.No.7300 of 1993 is also placed on record. From a perusal of the said order, it is clear that the applicant in O.A.No.7300 of 1993 approached the Tribunal seeking appropriate directions to the respondents therein to appoint him in the post of Medical Officer. In the said case, he was appointed as Compounder in Municipal Ayurvedic Dispensary at Nellore. It was his case before the Tribunal that although he possesses the required qualification of Vaidya Vidwan, awarded by the Andhra Ayurvedic Parishad, Vijayawada his case was not being considered. The Tribunal by recording a finding that the applicant was in the zone of consideration, disposed of the O.A. with the direction to the respondents therein to consider his case for promotion as Medical Officer in any of the vacancies.

Recruitment and promotion for various posts in Indian Medicine and Homeopathy Department are governed by the special rules framed in G.O.Ms.No.265, Health, Medical and Family Welfare (I.2) Department, dated 26.05.1994. In the said special rules, the post of

Medical Officer (Ayurveda) is in Category-4 of Class-B (Ayurveda) and as per the method of recruitment, posts of Medical Officer can be filled up by direct recruitment and appointment by transfer of Compounder (Ayur).

The applicant in O.A.No.7300 of 1993 was working as Compounder. The Tribunal considering the said fact, issued directions to the respondents therein for appointing him as Medical Officer in any of the vacancies.

In the present case, the respondent claims that he is serving as Rural Medical Practitioner on contract basis in view of tripartite agreement entered by the State Government and Mandal Parishad with that of him. It is his case that though he possesses Vaidya Vidwan, which is equivalent to Degree, his case was not being considered for absorption or regularization. The Tribunal in the impugned order, has not considered the claim of the petitioners with reference to the averments mentioned in the affidavit filed in support of O.A. It appears, the Tribunal has passed the impugned orders in terms of earlier order, dated 21.04.2003 passed in O.A.No.7300 of 1993.

After hearing at length the learned Additional Advocate General representing the learned Government Pleader appearing for the petitioners and also the learned

counsel appearing for the respondent, we are of the view that the order, dated 21.04.2003 passed by the Tribunal in O.A.No.7300 of 1993 cannot be applied to the case on hand to consider the claim of the respondent. The case of the respondent is totally on a different footing and the orders passed in O.A.No.7300 of 1993 will not cover the issue, which falls for consideration in O.A.No.8607 of 2003 filed by him.

In that view of the matter, having regard to the fact that the Tribunal did not go into the merits of the matter and as we are of the view that earlier order, dated 21.04.2003 passed by the Tribunal in O.A.No.7300 of 1993 is not applicable to the case on hand, we deem it appropriate to set aside the impugned order passed by the Tribunal.

In view of the above, the impugned orders are set aside by remitting the matters for fresh consideration of the Tribunal to consider the claim of the respondents on its own merits and to pass appropriate orders, and the Writ Petitions are allowed. No order as to costs.

Miscellaneous Petitions, if any pending in these writ petitions shall stand closed.

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R.SUBHASH REDDY, J

26th NOVEMBER, 2013.

A.SHANKAR NARAYANA, J

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